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Dear Tamzin and James

Directions in respect of a track access contract between Network Rail Infrastructure Limited and West Midlands Trains Limited

1. We have today issued directions under section 18 of the Railways Act 1993 (the Act) to Network Rail Infrastructure Limited (Network Rail) to enter into a track access contract (TAC) with West Midlands Trains Limited (WMT) (jointly “the parties”). The application was submitted to the ORR by Network Rail on 1 March 2019. This letter explains the reasons for our decision.

The application

2. WMT had originally applied to ORR under section 17 of the Act for a new TAC because of disagreement with Network Rail over the terms of Clause 19 in the Contract, which describes the transitional arrangements for rights and entitlements. During the Statutory Consultation and as part of Network Rail’s representations, it advised that the issue had been resolved. The section 17 application was withdrawn on 19 February 2019. The parties then submitted an agreed proposed new TAC under section 18 of the Act on 1 March 2019.

3. The purpose of this Contract is to provide WMT with a new TAC to commence on the Subsidiary Change Date 2019 until the Principal Change Date 2026, co-terminus with the West Midlands franchise.

4. The new Contract also provides WMT with additional rights to implement a significant amount of service changes from the start of the May 2019 timetable, consistent

with its franchise obligations to the Department for Transport. The new additional services are set out in detail in Annex 1 to this decision letter.

Industry consultation

5. Network Rail used the industry consultation for the application submitted under Section 17 of the Act ending on 25 January 2019 and received the following responses:

- *Arriva Rail North* raised concerns, albeit not formal objections on the re-timing of the Birmingham – Liverpool services and the potential performance impact it could have on its services in the Liverpool area. The parties are working with Arriva Rail North via the appropriate performance forums to collaboratively address the concerns raised and ensure a resilient timetable is in place.
- *East Midlands Trains Limited* requested for further analysis and details on the changes sought on the Stoke Loop services. This was provided by the parties and with this, East Midlands Trains Limited confirmed it had no further queries or concerns.
- *Great North Western Railway (GNWR)* raised some queries on the application including: the additional services into Euston as part of mitigations for the loss of platform capacity at Euston arising due to HS2 work; details on the services described as part of the WMT's Train Service Requirements for May 2019; and assurances that Network Rail could accommodate all its rights in December 2019, in particular the Sunday services between Euston and Blackpool.
- In response, the parties advised that the additional trains between Euston and Watford Junction would help move passengers out of Euston in the peaks and that the entire May 2019 timetable had been rewritten in order to mitigate against the removal of Platforms 17 & 18 for HS2; a copy of WMT's Trains Service Requirements was provided for reference; and Network Rail provided reassurances that the rights sold to GNWR for the December 2019 timetable would be accommodated. GNWR provided no further comments.
- *Merseyrail Electrics 2002 Limited* responded seeking confirmation on the start date of the new TAC. Network Rail confirmed that this would be from the May 2019 timetable.
- *Transport Focus* supported the application and the passenger benefits it would offer.

Concerns raised by The Chiltern Railway Company Limited (Chiltern), Govia Thameslink Railway Limited (GTR) and XC Trains Limited (XC Trains)

- *GTR* raised objections to an additional Watford Junction to Euston service. It considered it non-compliant with timetable planning rules (TPR) and would result in a re-timing of one of its services. Network Rail reviewed this and through

collaboration with WMT and GTR, produced a solution acceptable to all. GTR confirmed following this that it had withdrawn its objections and was in support of the application.

- *Chiltern and XC Trains* raised broadly similar objections on a range of issues including: the management of performance risks associated with the introduction of new services on the Wolverhampton and Kenilworth corridors; cases of non-compliance with TPR; and concerns of network performance with changes introduced around the Snow Hill lines in the absence of any enhancement to capacity on the network or of any detailed evidence of WMT/Network Rail's performance mitigation work in advance of the creation of the timetable.
- In response to the concerns raised, the parties advised of the performance modelling undertaken and provided by TRACSIS to better understand the performance risks associated with the new services; highlighted the mitigation scenario meetings that XC Trains and other operators had attended to evaluate the potential regulation options available for signallers to minimise overall network delays; confirmed that the cases of TPR non-compliance were reviewed and actioned, and therefore considered the issue resolved; and responded to the concerns about the service changes on the Snow Hill lines by including their service recovery strategy.
- XC Trains provided no further response and the parties considered this as confirmation that its concerns were sufficiently addressed.
- Chiltern remained unsatisfied and over a number of iterations, sought more information to understand how Network Rail had been able to assure itself of the performance impact of the new services on the Chiltern route. It also added that its analysis concluded that some of the risks were not readily manageable without additional measures and in some cases, did not see that there were any effective operational mitigations. In its letter dated 1 April 2019, it requested ORR limit the new rights around the Snow Hill lines to the duration of the May 2019 timetable period.
- Network Rail confirmed it was satisfied that any performance concerns could be managed within the business as usual process. It highlighted the analysis work undertaken which it considered was important to independently verify its own assessment during the Sale of Access Rights (SoAR) process was accurate. Network Rail set out its plans to monitor performance including a daily conference call for the first two weeks of the May 2019 timetable to be chaired by the Chief Operating Officer for LNW Route and a dedicated train running controller to focus on the Snow Hill and Chiltern lines of route for the first week of the new services.
- We sought WMT's views on Chiltern's request to time limit the new services on the Snow Hill lines. WMT offered, as a compromise, to make Contingent rights for four out of the nine services identified as most "high-risk". In response, Chiltern asked

for a further two services to be made Contingent. WMT agreed to this and Chiltern withdrew its objections.

ORR review

6. In considering the contract and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We concluded that issuing directions in respect of this contract is consistent with our section 4 duties, in particular those relating to:

- a) promoting improvements in railway service performance;
- b) protecting the interests of users of railway services;
- c) promoting the use of the railway network for the carriage of passengers and goods; and
- d) enabling persons providing railway services to plan their businesses with a reasonable degree of assurance.

7. We acknowledge the work that Network Rail and WMT have undertaken to address the concerns raised over this application. We welcome the pragmatic approach shown by the parties and willingness to collaborate and compromise to enable the continual delivery of a high performing railway on the Snow Hill lines. In particular, we consider the decision to make a number of the higher-risk services Contingent, a sensible solution. We note the plans Network Rail has put in place to monitor performance of the new services from the start of the May 2019 timetable and to ensure that any performance issues that arise are mitigated. We expect all parties to continue to work together to ensure that services on the network can be operated reliably.

8. We are satisfied that the new services enabled by this TAC will bring about positive benefits to passengers including new and more frequent services, better journey opportunities and new rolling stock.

9. We requested the status of the vehicle change applications for the Class 230 and Class 350. Network Rail confirmed that expedited vehicle changes had been completed for both vehicle types with no objections.

10. We advised the parties that the TAC submitted would need to be re-drafted using the new CP6 Model Contract. A revised TAC was submitted on 26 April 2019 and a further revised version on 9 May 2019 with the rights for six services as referred to above, as Contingent Rights. It is the 9 May 2019 version of the contract which we are directing the parties to enter into.

Public register and administration

11. A copy of the Directions and the signed contract will be placed on our public register, copies of this letter and the contract will also be placed on the ORR website. I am also copying this letter to Peter Craig at Network Rail and Keith Merritt at Department for Transport.
12. Once the agreement is signed, in accordance with Section 72(5) of the Act, you must send a copy to ORR within 14 days.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M Albon', written in a cursive style.

Michael Albon

Annex 1

EJ01 - West Midlands Snow Hill

Additional evening services (SX) will be provided between Birmingham Snow Hill and Dorridge, departing from Snow Hill at 18:50, 19:28 (to SOAV), 20:18, 20:49 (ex KIDD), 21:21, 21:49 (ex KIDD), 22:07 and 22:52, providing a half-hourly evening service to Dorridge (currently hourly). In the opposite direction additional services will operate from Dorridge at 19:51 (to KIDD), 20:19 (to KIDD), 20:53, 21:19 (to KIDD), 22:03, 22:25 and 22:49.

The pattern is broadly similar on Saturdays with additional services departing Snow Hill for Dorridge at 19:39 (from KIDD), 20:19, 20:49 (from KIDD), 21:19, 21:49 (from KIDD), and in the opposite direction from Dorridge at 19:49, 20:49 and 21:49.

Additional evening services (SX and SO) will also be provided to and from Kidderminster to provide a 3tph service (vice hourly). These services will be formed by the extension of the existing Stourbridge Jn services. Existing services from Stourbridge at 19:57, 20:57 and 21:57 will start back from Kidderminster at 19:45, 20:45 (from GMV, SX) and 21:45 respectively, plus two additional services from Kidderminster to Dorridge departing Kidderminster at 20:05 and 21:05. In the opposite direction existing WMT services that arrive and terminate at Stourbridge Jn will be extended through to Kidderminster at 19:39, 20:09, 20:52, 21:52 and 22:52 (to WSH, SO). Additional services will then also be provided from Dorridge to Kidderminster arriving at 21:20 (20:19 ex Dorridge) and 22:20 (21:19 ex Dorridge) to create a 3tph evening service between Birmingham and Kidderminster.

Additional evening services will be provided (SX and SO) to and from Whitlocks end, formed from an extension of the existing Worcester services that arrive at Snow Hill at xx:55. Departures from Birmingham Snow Hill will be at 19:54 (formed from the 18:46 ex WOF, which previously went to DDG), 20:57 (which previously went to DDG), 21:57 and 22:57 (which previously went to LMS). In the opposite direction additional services will be provided from Whitlocks End at 19:45 (SX only), 20:30, 21:32 and 22:34 (SX only), arriving at Snow Hill at xx.51 to form existing through services to Worcester (21:30 service will go to GMV).

There will also be some additional service enhancements as follows:

- Additional 06:19 (SX) Kidderminster – Whitlocks end service (departs BSH at 07:01)
- Additional 07:33 (SX) Whitlocks End to Birmingham Snow Hill (arrives BSH at 07:54)
- Additional 07:59 (SX) Birmingham Snow Hill to Dorridge service
- The existing 13:37 (SX) Stourbridge Jn - Whitlocks End service starts back from Kidderminster at 13:25
- The existing 12:40 (SX) Whitlocks End – Stourbridge Jn is extended to Kidderminster (arriving 13:40)
- Additional 09:57 (SUN) Birmingham Snow Hill – Dorridge service in standard Sunday pattern
- Additional 18:27 (SUN) Dorridge – Birmingham service in standard Sunday pattern
- Additional 08:41 (SUN) Birmingham Snow Hill – Whitlocks End service

EJ02 - Trent Valley

Euston – Crewe services

As a general pattern the existing xx.46 paths from Euston-Crewe from 07:46 to 20:46 (SX) and 07:46 to 18:46 (SO) are diverted away from the Stoke-on-Trent loop to run directly between Stafford and Crewe via Madeley instead. In the opposite direction the existing xx.50 arrivals at Euston are also diverted to run directly between Crewe and Stafford, rather than via the Stoke-on-Trent loop. Sunday services will also be diverted to operate directly via Madeley, in both directions.

Other specific amendments to individual services in this Service Group are as follows:

SX

- The existing 18:49 Euston-Crewe (via Northampton) service is amended to run at 18:46 direct via Weedon and then forward timed earlier from Rugby to Crewe direct via Madeley.
- The existing 05:21 (SX) Crewe-Euston (0805 arrival) runs later at 05:47 and is amended to run via Weedon non-stop to Euston, and ceasing to run via Northampton. As a consequence, the existing 07:39 Bletchley-London Euston is back-timed to Northampton departing 07:15 calling at Milton Keynes.
- The existing 19:02 (SX) Crewe-Northampton is extended to Euston, calling at Wolverton, Milton Keynes Central, Bletchley, Leighton Buzzard, Cheddington, Berkhamsted, Hemel Hempstead and Watford Junction.
- Additional 19:33 (SX) Crewe-Euston service calling at Stafford, Rugeley Trent Valley, Lichfield Trent Valley, Tamworth, Atherstone, Nuneaton, Rugby, Milton Keynes Central and then non-stop to London Euston (via Weedon) arriving London Euston circa 21:15.
- Additional 21:29 (SX) Crewe-Northampton service calling at Stafford, Rugeley Trent Valley, Lichfield Trent Valley, Tamworth, Atherstone, Nuneaton, Rugby, Long Buckby and arriving Northampton 23:03.
- Additional 06:28 (SX) Euston-Crewe service via Weedon calling at Milton Keynes, Rugby, Nuneaton, Atherstone, Tamworth, Lichfield Trent Valley, Rugeley Trent Valley, Stafford, and Crewe. The existing 06:24 London Euston-Crewe service then runs earlier at 06:12, and from Northampton forwards as the existing 07:37 Northampton-Birmingham New St to form a through train.
- Additional 21:49 (SX) London Euston-Crewe (via Weedon / Madeley) calling at Milton Keynes, Rugby, Nuneaton, Atherstone, Tamworth, Lichfield Trent Valley, Rugeley Trent Valley, Stafford, and Crewe.

Saturdays

- Additional 20:02 (SO) Crewe-Euston via Stoke-on-Trent, calling at Stafford, Rugeley Trent Valley, Lichfield Trent Valley, Tamworth, Atherstone, Nuneaton, Rugby and Milton Keynes arriving Euston 00:06.
- The existing 06:24 (SO) Euston – Crewe (via Northampton) runs as booked to Northampton but then diverts to Birmingham New St.
- In light of the above, an additional 06:29 Euston – Crewe (via Weedon) service will operate, calling at Milton Keynes, Rugby, Nuneaton, Atherstone, Tamworth, Lichfield Trent Valley, Rugeley Trent Valley, Stafford, and Crewe.
- Additional 19:33 (SO) London Euston-Crewe (via Weedon / Madeley) calling at Milton Keynes, Rugby, Nuneaton, Atherstone, Tamworth, Lichfield Trent Valley, Rugeley Trent Valley, Stafford, and Crewe.

Leamington Spa – Coventry – Nuneaton

On Mondays - Fridays two additional return workings will be provided between Coventry and Nuneaton, then two additional return workings on Saturdays, and three additional on Sundays.

Between Leamington Spa and Coventry one additional return working will be provided Mondays-Fridays and Saturdays. Services will operate with Class 172 rolling stock (subject to route clearance), enabling the Leamington-Coventry and Coventry-Nuneaton services to be linked at Coventry to provide new through-journey opportunities (SX and SO).

On Sundays a new service will be provided between Leamington Spa and Coventry, using Class 172 rolling stock. Please note that the rights for the Sunday services in the proposed Contract are Contingent only.

EJ03 West Midlands New St Locals

Northampton-Coventry-Birmingham New St

Service enhancements as follows:

- Additional 05:23 (SX) Birmingham New St - Birmingham International service calling at Stechford and Lea Hall.
- The existing 09:11 (SX) Coventry - Birmingham service to start back at Northampton (dep 08:25) and formed by extending the 07:23 Euston – Milton Keynes through to Northampton to create a through-service. This removes the current detach move at Coventry.
- The existing 16:14 (SX) Birmingham New St - Coventry service is extended to Northampton calling at Rugby and Long Buckby and then forms the existing 17:25 Northampton-Euston to create a through-train.
- The existing 16:13 (SX) Euston - Northampton departs later at 16:29, is extended to Coventry (departing Northampton 1739) and goes on to form the existing 18:11 Coventry - Birmingham as a through train.
- The existing 15:24 (SX) Euston - Milton Keynes service is extended to Coventry via Northampton, and takes the path of the existing 17:11 Coventry - Birmingham to create a through train.
- The existing 22:14 (SX) Birmingham New St – Coventry service is extended to Northampton and through to London Euston,
- Additional 23:34 (SX) Birmingham New St - Coventry service calling at Stechford, Lea Hall, Marston Green, and all further stations to Coventry.
- Additional 00:17 and 00:40 (MX) late services from Birmingham to Coventry, calling at all stations.
- The existing 05:57 (SX) Coventry - Euston service is extended back to start from Birmingham New St at 05:33 (the 'in pattern' xx.33 slot) calling at Marston Green, Birmingham International, Berkswell, Tile Hill, Canley and then forward as currently booked.
- The existing 06:18 (SX) Northampton – Euston service starts back from Coventry at 05:38 calling at Rugby and Long Buckby then as currently booked from Northampton.
- Additional 05:37 (SO) Coventry-Birmingham New St calling at Birmingham International and Marston Green only.
- Additional 05:33 (SO) Birmingham-Northampton service ('in pattern' xx.33 slot) calling at Marston Green, Birmingham International, then all stations to Northampton.

The most notable change on this route will occur on Sundays. From May 2019, WMT propose to increase the frequency of Sunday services between Euston and Birmingham New Street to three trains per hour during the period when four tracks are available between Euston and Rugby (12.00hrs onwards). All trains will be 8 car which will simplify the existing mix of 4 and 12 car trains between Euston and Northampton. This considerable increase in capacity will not only ease congestion on the existing (heavily crowded) hourly service, but also removes the need for any attaching or detaching at Northampton.

Birmingham – Worcester - Hereford

Additional evening services on both weekdays and weekends as follows:

- Additional 18:50 (SX) Worcester Shrub Hill – Birmingham New St service, arriving BNS at 19:37
- Additional 18:50 (SX) Birmingham New St – Worcester Shrub Hill service
- Additional 20:21 (SX) Hereford – Worcester Shrub Hill service
- Additional 18:42 (SO) Hereford – Birmingham New St service
- The existing 07:17 (SO) Great Malvern – Birmingham New St service starts back from Hereford at 06:39
- Additional 10:05, 15:39 (SUN) Worcester Shrub Hill – Birmingham New St services
- Additional 11:49, 13:49 (SUN) Worcester Foregate Street – Birmingham New St services

- Existing 17:59 (SUN) Worcester Shrub Hill – Birmingham New St service starts back from Hereford at 16:56
- Additional 21:00 (SUN) Hereford – Birmingham New St service
- Additional SUN services from Birmingham New St at 11:00 (to GMV), 13:00 (to WOF), 15:00 (to HFD), 17:00 (to WOS) and 22:30 (to WOS)
- The existing 19:00 (SUN) Birmingham New St – Worcester FS service is extended to Hereford, arriving 20:30

Cross-City Line and Bromsgrove

The basic 6tph service frequency on the Cross-City 'core' will remain as present. Mondays-Saturdays the existing 2tph evening service on the Cross-City North is increased to 4tph, with Bromsgrove - Birmingham New St services extended to / from Lichfield Trent Valley between 19:25 and 22:25.

Additional service enhancements will be provided as follows:

- The 22:57 (SX) Redditch - Birmingham New Street service is extended to Four Oaks (departing Birmingham New Street 23:34) calling all stations.
- The 22:17 (SX) Bromsgrove - Blake Street is extended to Lichfield City.

Birmingham New St – Walsall / Rugeley Trent Valley

Services will be timed using Class 350 SRTs following the electrification of this route in late 2018.

Additional evening services will be provided to Rugeley (SX and SO), formed from an extension of existing Birmingham New St – Walsall services, to continue the half-hourly service pattern between Birmingham and Rugeley up to 22:21 (ex New St).

In the opposite direction additional evening services will be provided between Rugeley and Walsall (formed by extending existing Walsall – Birmingham trains back from Rugeley Trent Valley), with half-hourly departures from Rugeley Trent Valley between 20:03 and 23:03.

EJ04 - West Midlands Inter-Urban

Birmingham New Street – Stoke – Crewe

To cater for the loss of an hourly service around the Stoke-on-Trent loop (in light of diversion of the Euston-Crewe services), an additional hourly service will operate (SX and SO) between Birmingham New St and Crewe from 06:07 to 23:10 (22:39 SO), calling at Wolverhampton, Stafford, Stone, Stoke, Kidsgrove and Alsager.

In the opposite direction, the additional hourly service from Crewe to Birmingham New St (via Stoke-on-Trent) will depart at xx.01.

On Sundays the additional hourly service will also operate in both directions and with the same calling patterns, albeit with a slightly later start time and earlier finish time (first service ex Birmingham New St at 09:17, and first service ex Crewe at 09:12. Last service ex Birmingham New St at 21:20, and last service ex Crewe at 22:10)

Birmingham New Street – Liverpool Lime St

Existing services from Birmingham New St to Liverpool (which currently depart at xx.01) are retimed to depart slightly later and with 110mph SRTs between Wolverhampton and Weaver Jn. This will provide a reduced journey time between Liverpool and Birmingham.



Existing xx.36 SX and SO services from Birmingham New St will use the existing xx:33 arrivals at Birmingham New St from Birmingham International, also using 110mph rolling stock. In addition to reducing journey times between Birmingham and Liverpool this will therefore also provide through-journey opportunities from Birmingham International to Liverpool.

Additionally the 06:49 (SX and SO) Crewe – Euston (via Birmingham New St) service will start back from Liverpool Lime St at 06:10, providing an earlier journey opportunity between Liverpool and Birmingham.

Shrewsbury – Birmingham New St

An additional hourly service will be provided between Birmingham New St and Shrewsbury (SX and SO), from 07:00 to 19:49 (general SX pattern for WMT services from New St to Shrewsbury will be departures at xx.52 and xx.00).

In the opposite direction two WMT services per hour will depart from Shrewsbury to Birmingham New St at xx:13 and xx:41.

On Sundays an hourly service will operate between Birmingham and Shrewsbury, from 08:37 to 22:04, calling at Smethwick Galton Bridge, Sandwell and Dudley, Wolverhampton then all stations (except Oakengates) to Shrewsbury.

EJ05 - WCML: London - Northampton

As a general pattern, all Fast Line services will be timed at 110mph using accelerated Class 350/2 rolling stock. Existing services arriving at Euston xx27 will be accelerated south of Ledburn Jn to arrive London Euston xx:24. Services departing xx13 from London Euston (mostly to Birmingham New St) will be retimed to depart Euston later at xx15/xx16 but as booked from Ledburn Jn, then continuing from Birmingham New St to Crewe.

Existing xx.24 services from Euston to Milton Keynes (SX) will be extended through to Birmingham New St and onwards to Rugeley Trent Valley following completion of the Cannock Line electrification project. In the opposite direction the existing xx.24 arrivals from Birmingham New St will be back-timed to Rugeley Trent Valley. On Saturdays the existing hourly Euston – Milton Keynes services between 08:24 and 18:24, and then the two later services departing at 19:14 and 19:30, will be extended to Northampton and then through to Birmingham New St.

Other specific amendments to individual services in this Service Group are as follows:

- Additional 09:26 (SX) Watford Jn (P10) to London Euston service calling at Bushey and Harrow arriving London Euston 09:48.
- Additional 16:10 and 17:04 (SX) Euston to Watford Jn (P10) services calling at Bushey and Harrow.
- Additional 22:12 (SO) Euston-Northampton (timed via slow lines) calling Wembley Central, Harrow, Bushey, Watford Junction, Hemel Hempstead, Berkhamsted, Leighton Buzzard, Bletchley, Milton Keynes, and Wolverton. Arrives Northampton 23:36.
- Additional 23:20 (SO) Euston-Northampton (timed via slow lines) calling Harrow, Watford Junction, Kings Langley, Apsley, Hemel Hempstead, Tring, Cheddington, Leighton Buzzard, Bletchley, Milton Keynes Central, Wolverton. Arrives Northampton 00:47.
- As previously mentioned, there will be an increased quantum of services on Sundays with 3tph between Euston and Birmingham New St. Departures from Euston towards Birmingham New St will be at xx.08, xx.31 and xx.34 (from 12:00 onwards). These services will all be timed at 110mph.

EJ06 - WCML Branch Lines

One additional service between Bedford and Bletchley in each direction (SX and SO).